

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GEM GLOBAL YIELD FUND LIMITED,

Case No. 1:17-cv-02453(VSB)

Plaintiff,

-against-

ANSWER

EOS PETRO, INC.

Hon. Vernon S. Broderick

Defendant.

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Defendant EOS Petro, Inc. (“EOS Petro”) by and through its undersigned attorneys,
Gabay-Rafiy & Bowler LLP, hereby answers Plaintiff GEM Global Yield Fund Limited’s
 (“GEM”) Complaint (“Complaint”), as follows:

1. Denies the allegations contained in paragraph “1” of the Complaint.
2. Denies knowledge or information sufficient to form a belief as to the truth of each
and every allegation contained in paragraph “2” of the Complaint.
3. Admits the allegations contained in paragraph “3” of the Complaint.
4. Denies knowledge or information sufficient to form a belief as to the truth of each
and every allegation contained in paragraph “4” of the Complaint.
5. Denies the allegations contained in paragraph “5” of the Complaint, as it calls for
legal conclusions and respectfully refers the Court to the documents for their contents.
6. Denies the allegations contained in paragraph “6” of the Complaint, as it calls for
legal conclusions.
7. Denies the allegations contained in paragraph “7” of the Complaint.
8. Denies the allegations contained in paragraph “8” of the Complaint.
9. Denies the allegations contained in paragraph “9” of the Complaint

10. Denies the allegations contained in paragraph “10” of the Complaint.
11. Denies the allegations contained in paragraph “11” of the Complaint.
12. Denies the allegations contained in paragraph “12” of the Complaint.
13. Denies the allegations contained in paragraph “13” of the Complaint.
14. Denies the allegations contained in paragraph “14” of the Complaint.
15. Denies the allegations contained in paragraph “15” of the Complaint.
16. Denies the allegations contained in paragraph “16” of the Complaint.
17. Denies the allegations contained in paragraph “17” of the Complaint.
18. Denies the allegations contained in the “WHEREFORE” paragraphs.

FIRST AFFIRMATIVE DEFENSE

19. The Complaint is made on behalf of an improper party.

SECOND AFFIRMATIVE DEFENSE

20. Plaintiff lacks privity of contract.

THIRD AFFIRMATIVE DEFENSE

21. Plaintiff’s claims are barred by waiver, estoppel and Plaintiff’s unclean hands.

FOURTH AFFIRMATIVE DEFENSE

22. Plaintiff failed to implead a necessary party.

FIFTH AFFIRMATIVE DEFENSE

23. Plaintiff failed to mitigate damages.

SIXTH AFFIRMATIVE DEFENSE

24. Plaintiff’s claims are barred as Plaintiff failed to perform under the contract.

SEVENTH AFFIRMATIVE DEFENSE

25. Plaintiff failed to state a claim upon which relief can be granted.

EIGHTH AFFIRMATIVE DEFENSE

26. Plaintiff's claims for breach of contract and an accounting are duplicative.

NINTH AFFIRMATIVE DEFENSE

27. Any damages suffered by Plaintiff are a result of Plaintiff's own conduct or the conduct of a third party.

TENTH AFFIRMATIVE DEFENSE

28. Plaintiff's claims are barred for lack of consideration.

ELEVENTH AFFIRMATIVE DEFENSE

29. To the extent Plaintiff made any demand for payment, Defendant objected.
30. EOS Petro reserves the right to amend its Answer to assert any additional affirmative defenses that become available or apparent during discovery.

WHEREFORE, EOS Petro seeks judgment against Plaintiff (a) dismissing the Complaint with costs, disbursements and attorneys' fees; (b) for damages in an amount to be determined at trial and (c) such other and further relief as the Court may deem just and proper.

Dated: November 13, 2017



By: _____
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